THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.25828 of 2005

Date: 12.09.2007

Between:

T. Sukhraj Singh

... Petitioner

AND

The A.P. Central Power Distribution Ltd.,
Rep., by its Chairman & Managing Director,
Mint Compound, Khairatabad, Hyderabad
& three others.

... Respondents

Counsel for the petitioner : Sri G. Prabhakar Sharma

Counsel for the respondents : Sri A.B.S. Reddy for
Sri V. Ajay Kumar
Standing Counsel for APCPDCL

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.25828 of 2005

ORDER:-

This writ petition is filed for a writ of mandamus to set aside order dated 11.08.2005 passed by the Divisional Engineer, Assessment-I, Andhra Pradesh Central Power Distribution Company Limited, respondent No.2, whereby he called upon the petitioner to pay a sum of Rs.8529/- in addition to Rs.50/- towards supervision charges and another sum of Rs.50/- towards reconnection fees, if the petitioner intends to seek restoration of power supply.

The petitioner holds a domestic service connection bearing No.C4-202 (LT Category-I) in respect of his house bearing No.14-10-567, Dhoolpet, Hyderabad. An inspection was made on the petitioner's premises by the officials of respondent No.1 on 25.05.2005. On the basis of the said inspection, a provisional assessment notice was issued on 22.08.2005 wherein the value of the energy allegedly pilfered by the petitioner was provisionally estimated at Rs.13,113/-. Subsequently, when certain additional amounts over and above the regular electricity charges were included in the bill served to the petitioner, he came to know that the said amounts were demanded in pursuance of a final assessment order passed by respondent No.2. Challenging the said order, the present writ petition is filed.

Heard Sri G. Prabhakar Sharma, learned counsel for the petitioner and Sri A.B.S. Reddy representing Sri V. Ajay Kumar, learned Standing Counsel for the Andhra Pradesh Central Power Distribution Company Limited.

Learned counsel for the petitioner had made the following submissions:

a) that respondent No.2 passed the impugned assessment order without any notice to the petitioner, and

b) that the assessment order is in violation of Section 126 of the Electricity Act, 2003 (for short "the Act") under which the maximum period for which the assessment can be made is three months preceding the date of inspection.

Learned counsel for the respondents fairly submitted that though a show cause notice was issued on 22.08.2005, the same was not intended to be a notice in respect of the service connection in dispute. He also fairly admitted that in any event the said show cause notice issued subsequent to the final assessment proceedings made by respondent No.2 on 11.08.2005 cannot be treated as a valid one.

Having regard to the aforementioned submissions of the learned counsel, I am of the view that the impugned order dated 11.08.2005 passed by respondent No.2 cannot be sustained for the reason that he failed to give notice and opportunity to the petitioner to submit his objections before passing final assessment order. The said order is therefore in violation of principles of natural justice as enunciated under Section 126 (3) of the Act and

is liable to be set aside.

Accordingly, the writ petition is allowed and the order dated 11.08.2005 passed by respondent No.2 is set aside. Respondent No.2 is left free to proceed afresh after giving notice and opportunity to the petitioner to file objections, if any, and consider the same.

As a sequel to disposal of the writ petition, WPMP.No.33215 of 2005 filed by the petitioner for interim relief is dismissed as infructuous.

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C.V.NAGARJUNA REDDY, J

Date: 12.09.2007
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